

eggs at a temperature not to exceed sixty degrees Fahrenheit or sixteen degrees Celsius. From the time of candling and grading until they reach the consumer, all eggs designated for human consumption shall be held at a temperature not to exceed forty-five degrees Fahrenheit or seven degrees Celsius ambient temperature. The forty-five degrees Fahrenheit or seven degrees Celsius ambient temperature requirement applies to any place or room in which eggs are stored, except inside a vehicle during transportation where the ambient temperature may exceed forty-five degrees Fahrenheit or seven degrees Celsius, provided the transport vehicle is equipped with refrigeration units capable of delivering air at a temperature not greater than forty-five degrees Fahrenheit or seven degrees Celsius and capable of cooling the vehicle to a temperature not greater than forty-five degrees Fahrenheit or seven degrees Celsius. All shell eggs shall be kept from freezing.

2. Notwithstanding subsection 1, eggs gathered for sale at a poultry show from fowl exhibited at the show which show has received financial assistance from the state in prior fiscal years, shall be exempt from the storage temperature and consumer grade quality requirements contained in subsection 1. If eggs are offered for sale at such an exhibit, five hundred dollars is appropriated to the department to reimburse the sponsoring agency of the exhibit for the expenses associated with the exhibit.

Approved May 27, 1997

CHAPTER 193

AGRICULTURAL DRAINAGE WELLS AND RELATED PROVISIONS

S.F. 473

† AN ACT requiring owners of agricultural drainage wells to prevent surface water intake into the wells, providing for the closure of certain wells and the construction of alternative drainage systems, providing state assistance for closing agricultural drainage wells, prohibiting the construction and use of certain structures located in agricultural drainage well areas, providing for the assessment and collection of certain drainage district expenses, providing penalties, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 159.1, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 0A. "Agricultural drainage well" means the same as defined in section 455H.1.

NEW SUBSECTION. 0B. "Agricultural drainage well area" means the same as defined in section 455H.1.

NEW SUBSECTION. 1A. "Designated agricultural drainage well area" means the same as defined in section 455H.1.

Sec. 2. NEW SECTION. 159.29A AGRICULTURAL DRAINAGE WELLS — ALTERNATIVE DRAINAGE SYSTEM ASSISTANCE FUND.

1. An alternative drainage system assistance fund is created in the state treasury under the control of the soil conservation division. The fund is composed of moneys appropriated by the general assembly, and moneys available to and obtained or accepted by the division or the state soil conservation committee established pursuant to section 161A.4, from the United States or private sources for placement in the fund.

† Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

2. Moneys in the fund are subject to an annual audit by the auditor of state. The fund is subject to warrants written by the director of revenue and finance, drawn upon the written requisition of the division.

3. The fund shall be used to support the alternative drainage system assistance program as provided in section 159.29B. Moneys shall be used to provide financial incentives under the program, and to defray expenses by the division in administering the program. However, not more than one percent of the money in the fund is available to defray administrative expenses. The division may adopt rules pursuant to chapter 17A to administer this section.

4. The division shall not in any manner directly or indirectly pledge the credit of the state.

5. Section 8.33 shall not apply to moneys in the fund. Notwithstanding section 12C.7, moneys earned as income, including as interest, from the fund shall remain in the fund until expended as provided in this section.

Sec. 3. NEW SECTION. 159.29B AGRICULTURAL DRAINAGE WELLS — ALTERNATIVE DRAINAGE SYSTEM ASSISTANCE PROGRAM.

1. The soil conservation division shall establish an alternative drainage system assistance program as provided by rules which shall be adopted by the division pursuant to chapter 17A. The program shall be supported from moneys deposited in the alternative drainage system assistance fund created pursuant to section 159.29A.

2. To the extent that moneys are available to support the program, the division shall provide cost-share moneys to persons closing agricultural drainage wells located within designated agricultural drainage well areas, and constructing alternative drainage systems which are part of a drainage district in accordance with the priority system established pursuant to section 159.29. The amount of moneys allocated in cost-share payments to a person qualifying under the program shall not exceed seventy-five percent of the estimated cost of installing the alternative drainage system or seventy-five percent of the actual cost of installing the alternative drainage system, whichever is less.

3. a. A person who owns an interest in land within a designated agricultural drainage well area shall not be eligible to participate in the program, if the person is any of the following:

(1) A party to a pending legal or administrative action, including a contested case proceeding under chapter 17A, relating to an alleged violation involving an animal feeding operation as regulated by the department of natural resources, regardless of whether the pending action is brought by the department or the attorney general.

(2) Is classified as a habitual violator for a violation of state law involving an animal feeding operation as regulated by the department of natural resources.

b. Noncrop acres located within a designated agricultural drainage well area shall not be eligible to benefit from the program.

The department of natural resources shall cooperate with the division by providing information necessary to administer this subsection.

Sec. 4. NEW SECTION. 455H.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Agricultural drainage well" means a vertical opening to an aquifer or permeable substratum which is constructed by any means including but not limited to drilling, driving, digging, boring, augering, jetting, washing, or coring, and which is capable of intercepting or receiving surface or subsurface drainage water from land directly or by a drainage system.

2. "Agricultural drainage well area" means an area of land where surface or subsurface water drains into an agricultural drainage well directly or through a drainage system connecting to the agricultural drainage well.

3. "Alternative drainage system" means a drainage system constructed as part of a drainage district in order to drain surface or subsurface water from land due to the closing of an agricultural drainage well.

4. "Department" means the department of natural resources.
5. "Designated agricultural drainage well area" means an agricultural drainage well area in which there is located an anaerobic lagoon or earthen manure storage basin required to obtain a construction permit by the department of natural resources.
6. "Division" means the soil conservation division of the department of agriculture and land stewardship.
7. "Drainage district" means a drainage district established pursuant to chapter 468.
8. "Drainage system" means tile lines, laterals, surface inlets, or other improvements which are constructed to facilitate the drainage of land.
9. "Earthen storage structure" means an earthen cavity, either covered or uncovered, including but not limited to an anaerobic lagoon or earthen manure storage basin which is used to store manure, sewage, wastewater, industrial waste, or other waste as regulated by the department of natural resources, if stored in a liquid or semi-liquid state.
10. "Land" means land which is used or which is suitable for use for any purpose, if the land is located within an agricultural drainage well area which includes land used or suitable for use in farming.
11. "Surface water" means water occurring on the surface of the ground.
12. "Surface water intake" means an artificial opening to a drain tile line which drains into an agricultural drainage well, if the artificial opening allows surface water to enter the drain tile line without filtration through the soil profile.

Sec. 5. NEW SECTION. 455H.2 PREVENTING SURFACE WATER DRAINAGE INTO AGRICULTURAL DRAINAGE WELLS — PENALTY.

Not later than December 31, 1998, all of the following shall apply:

1. An owner of land on which an agricultural drainage well is located shall prevent surface water from draining into the agricultural drainage well. The landowner shall comply with rules, which shall be adopted by the department, in consultation with the division, required to carry out this section. The landowner shall do all of the following:
 - a. If the land has a surface water intake emptying into an agricultural drainage well, including a surface water intake located in a road ditch, the landowner shall remove the surface water intake.
 - b. If the land has a cistern connecting to an agricultural drainage well, the landowner shall construct and maintain sidewalls surrounding the cistern in order to prevent surface water runoff directly emptying into the agricultural drainage well.
 - c. If the land has an agricultural drainage well, the landowner shall ensure that the agricultural drainage well and related drainage system are adequately ventilated in a manner that does not allow surface water to directly drain into the agricultural drainage well.
 - d. The landowner shall install a locked cover over the agricultural drainage well or its cistern in order to prevent unauthorized access to the agricultural drainage well or its cistern.

This subsection does not require a person to remove a tile line that drains into an agricultural drainage well if the tile line does not have a surface water intake. This subsection also does not prohibit a person from installing a tile line, if the installed tile line does not increase an agricultural drainage well area.

2. An agricultural drainage well shall be inspected to ensure compliance with this section, as required by the county board of supervisors in the county in which the agricultural drainage well is located.
3. The department shall adopt guidelines as necessary to assist counties in performing inspections as provided in this section. The guidelines shall not affect the authority of a county to designate a person to perform inspections.

Sec. 6. NEW SECTION. 455H.3 CLOSING OF AGRICULTURAL DRAINAGE WELLS AND CONSTRUCTION OF ALTERNATIVE DRAINAGE SYSTEMS.

1. Not later than December 31, 1999, the owner of land which is within a designated

agricultural drainage well area shall close each agricultural drainage well located on the land. The owner shall close the agricultural drainage well in a manner using materials and according to specifications required by rules which shall be adopted by the department in consultation with the division. The department may provide different closing requirements based on classifications established by the department. However, the department's requirements shall ensure that an agricultural drainage well is closed by using sealing materials such as bentonite to permanently seal the agricultural drainage well from contamination by surface or subsurface water drainage.

2. A person owning land affected by the closing of an agricultural drainage well as required pursuant to subsection 1 may construct an alternative drainage system as part of an established or new drainage district as provided in chapter 468. The alternative drainage system shall ensure that surface or subsurface water does not drain into an agricultural drainage well.

Sec. 7. NEW SECTION. 455H.4 NOTICE.

1. The department shall provide information regarding landowners registering agricultural drainage wells pursuant to section 159.29 to each county board of supervisors in which an agricultural drainage well is registered.

2. The department shall notify landowners of land on which an agricultural drainage well is located of the deadline for complying with this chapter. The notice shall be provided by print, electronic media, or other notification process. The department shall provide the notice in cooperation with the county board of supervisors in the county where the agricultural drainage well is located.

3. The department shall mail a special notice to owners of land registering agricultural drainage wells pursuant to section 159.29.

Sec. 8. NEW SECTION. 455H.5 PROHIBITION AGAINST CONSTRUCTING EARTHEN STORAGE STRUCTURES.

A person shall not construct or expand an earthen storage structure within an agricultural drainage well area. Each day that a person operates an earthen storage structure which is constructed in violation of this section constitutes a separate violation.

Sec. 9. NEW SECTION. 455H.6 PENALTIES.

1. a. A person who violates sections 455H.2 or 455H.3 is subject to a civil penalty of not more than one thousand dollars. However, if a person is found to have violated a section and again violates the section by not taking action necessary to correct a previous violation within sixty days after the person was found to have committed the previous violation, the person is subject to a civil penalty not to exceed five thousand dollars. If a person is convicted of violating a section two or more times and again violates that section by not taking action necessary to correct a previous violation within sixty days after the person was found to have committed the last previous violation, the person is subject to a civil penalty not to exceed fifteen thousand dollars.

b. A person who violates section 455H.5 is subject to a civil penalty not to exceed five thousand dollars.

2. Moneys collected from the assessment of civil penalties and interest on civil penalties as provided for in this section shall be deposited in the manure storage indemnity fund as created in section 204.2.

Sec. 10. NEW SECTION. 455H.7 REIMBURSEMENT OF EXPENSES.

The expenses incurred by a county in carrying out this chapter shall be prorated among the landowners in the county who own land on which an agricultural drainage well is located. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. If expenses are incurred by a drainage district, the board shall levy an assessment on the lands in the district where an agricultural drainage well is located as provided in section 468.50.

Sec. 11. NEW SECTION. 468.189 CLOSING AGRICULTURAL DRAINAGE WELLS — ASSESSMENT OF COSTS WITHIN A DRAINAGE DISTRICT.

The costs of closing an agricultural drainage well and constructing an alternative drainage system as part of a drainage district shall be assessed as a special assessment by the board as provided in this chapter.

Sec. 12. DEPARTMENTAL RULES. The department of agriculture and land stewardship and the department of natural resources shall adopt all rules required to carry out this Act by December 31, 1997.

Sec. 13. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 29, 1997

CHAPTER 194

LEVEE AND DRAINAGE DISTRICTS — STATE-OWNED LAND

H.F. 336

AN ACT providing for the assessment of lands owned by the department of natural resources within levee and drainage districts.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 468.43, unnumbered paragraph 3, Code 1997, is amended to read as follows:

When ~~any~~ state-owned ~~lands~~ land under the jurisdiction of the department of natural resources ~~are~~ is situated within a levee or drainage district, the commissioners ~~to assess~~ assessing benefits shall ascertain and return in their report the amount of benefits and the apportionment of costs and expenses to ~~such lands~~ the land, and the board of supervisors shall assess the ~~same~~ amount against ~~such lands~~ the land. ~~However, the commissioners shall not assess benefits to property below the ordinary high water mark in a sovereign state-owned lake, marsh or stream under the jurisdiction of the department of natural resources.~~

Approved May 29, 1997